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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 13th July, 1970|*Asadha* 22, 1892 (*Saka*)

The following President's Act is published for general information:—

THE WEST BENGAL LAND REFORMS (AMENDMENT) ACT, 1970

No. 16 OF 1970

Enacted by the President in the Twenty-first Year of the Republic of India.

An Act further to amend the West Bengal Land Reforms Act, 1955.

In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970, the President is pleased to enact as follows:— 17 of 1970.

1. (*1*) This Act may be called the West Bengal Land Reforms (Amendment) Act, 1970. Short title and commencement.

(*2*) It shall come into force at once.

Insertion of new section 15A.

2. After section 15 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:— West Bengal Act X of 1956.

Continuation of right of cultivation on *bargadar's* death.

"15A. (*1*) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, where a *bargadar*, cultivating any land, dies at a time when cultivation of such land by the *bargadar* was continuing, the cultivation of such land may be continued by the lawful heir of the *bargadar* or where there are more than one lawful heir, by such lawful heir of the *bargadar* as all the lawful heirs of the *bargadar* may determine within the prescribed period:

Provided that where the lawful heirs of the *bargadar* omit or fail to make a determination as required by this sub-section, the officer or authority appointed under sub-section (*1*) of section 18 may nominate one of the lawful heirs of the *bargadar*, who is in a position to cultivate the land personally, to continue the cultivation thereof.

(*2*) The lawful heir of the *bargadar* who is determined or nominated for the cultivation of the land shall cultivate the land subject to such terms and conditions as may be prescribed.

(*3*) Where—

(*a*) no lawful heir of the *bargadar* is in a position to cultivate the land personally, or

(*b*) the lawful heirs of the *bargadar* fail to determine, within the prescribed period, the heir by whom the cultivation of the land will be continued and the officer or authority appointed under sub-section (*1*) of section 18 also omits or fails to nominate, within the prescribed period, any lawful heir of the deceased *bargadar* for the continuation of the cultivation of the land, or

(c) the person determined or nominated under sub-section (*1*) omits or fails to take any steps, within the prescribed period, for the continuation of the cultivation of the land,

cultivation of the land may be continued by such person, whether an heir of the deceased *bargadar* or not, as may be nominated by the person whose land was cultivated by the deceased *bargadar*.".

Amendment of section 16.

3. In section 16 of the principal Act,—

(*i*) in clause (*b*) of sub-section (*1*), for the figures "60:40", the figures "75:25" shall be substituted;

(*ii*) for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) The *bargadar* shall tender, within the prescribed period, to the person whose land he cultivates, the share of the produce due to such person.

(*3*) Where any share of produce tendered under sub-section (*2*) is accepted by the person whose land is cultivated by the *bargadar*, each party shall give to the other a receipt, in such form

as may be prescribed, for the quantity of the produce received by him.

(4) If the person whose land is cultivated by the *bargadar* refuses to accept the share of the produce tendered to him by the *bargadar*, or to give a receipt therefor, the *bargadar* may deposit, within the prescribed period, such share of the produce with such officer or authority as may be prescribed and such deposit shall discharge the *bargadar* from his obligation to deliver the share of the produce to the person whose land he cultivates:

Provided that where the quantity of the produce deposited by the *bargadar* is lesser than the quantity of the produce due to the person whose land he cultivates, the obligation of the *bargadar* with regard to the delivery of the deficiency in relation to the produce shall continue.

(5) Where a deposit referred to in sub-section (4) has been made, the prescribed officer or authority shall—

(*a*) give to the *bargadar* a receipt in such form as may be prescribed stating therein the quantity of the produce deposited by the *bargadar* and the particulars of the person for whom the produce has been deposited; and

(*b*) give intimation of such deposit, in such form and in such manner as may be prescribed, to the person for whom the produce has been deposited.

(6) Where any produce is deposited under sub-section (4), the officer or authority referred to therein shall, on an application made to him or to it by the person whose land is cultivated by the *bargadar*, either deliver to such person the share of the produce deposited by the *bargadar* or pay him, at his option, in cash the price of such share of the produce, computed at the rates prevalent at the date of the deposit for the procurement of the produce by the State Government.

(7) The *bargadar* shall store or thresh the produce—

(*a*) at such place as may be agreed upon between him and the person whose land he cultivates, or

(*b*) where there is disagreement between them, at such place as may be fixed by him after giving notice, in writing, served in the prescribed manner, to the person whose land he cultivates:

Provided that the person whose land is cultivated by the *bargadar* may, at any time during the storage or threshing of the produce, enter the place where the produce has been stored or is being threshed for the purpose of inspecting the storage or threshing, as the case may be, of the produce.".

Amendment of section 17.

4. In section 17 of the principal Act, in sub-section (*1*),—

(*a*) in clause (*a*), the words "or has neglected to cutivate it properly" shall be omitted;

(*b*) for clause (*c*), the following clause shall be substituted, namely:—

"(c) that the *bargadar* has failed to tender or deposit to the

full extent the share of the produce as required by sub-section (*2*), or sub-section (*4*), as the case may be, of section 16:

Provided that no order for the termination of cultivation, made on the ground specified in this clause, shall be given effect to if the *bargadar* delivers to the person, whose land he cultivates, the share of the produce due to such person, or pays to him the market price thereof, within such time and in such instalments as the officer or authority making the order may, having regard to all the circumstances of the case, specify in this behalf.";

(*c*) for the proviso to clause (*d*), the following provisos shall be substituted, namely:—

"Provided that the person owning the land shall be entitled to terminate cultivation by a *bargadar* of only so much of land as, together with any other land in the personal cultivation of such person, does not exceed 3·0351 hectares:

Provided further that such person shall not be entitled to so terminate cultivation by a *bargadar* as to reduce the aggregate area of the land cultivated by the *bargadar* to less than 0·8094 hectares.

Explanation.—In determining the areas specified in the foregoing provisos no transfer of land made after the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall be taken into account.".

Amendment of section 18.

5. In section 18 of the principal Act,—

(*i*) in sub-section (*1*), clause (c) shall be omitted;

(*ii*) sub-section (*2B*) shall be omitted.

Amendment of section 19.

6. In section 19 of the principal Act,—

(*a*) in sub-section (*1*), for the word "Munsif", wherever it occurs, the words "Sub-Divisional Officer" shall be substituted;

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) Every appeal pending before any Munsif at the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall, on such commencement, stand transferred to and be disposed of, by the Sub-Divisional Officer having jurisdiction in relation to the area in which the land is situated and on such transfer every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1970.

(*2B*) The Sub-Divisional Officer may transfer any appeal, whether transferred to, or filed before, him, for disposal to any officer not below the rank of a Sub-Deputy Collector, subordinate to him, but senior in rank and position to the officer or authority against whose order the appeal has been preferred and every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1970.

(c) in sub-section (3) and (4), for the word "Munsif", the words "Sub-Divisional Officer or other officer" shall be substituted.

Insertion of new section 20A.

7. After section 20 of the principal Act, the following section shall be inserted, namely:—

Setting aside of order for termination of cultivation by *bargadars*.

"20A. Notwithstanding anything contained in any law for the time being in force, where, before the commencement of the West Bengal Land Reforms (Amendment) Act, 1969, an order for the termination of cultivation of any land by a *bargadar* had been made under clause (b) of sub-section (1) of section 18 but such order has not been given effect to (whether by reason of the operation of any law or otherwise), before the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, then, such order shall, on such commencement, stand vacated and the officer or authority by whom such order was made shall, after giving notice to the parties concerned, decide the dispute in accordance with the provisions of section 17 as amended by the West Bengal Land Reforms (Amendment) Act, 1970.".

West Bengal Act XI of 1969.

Amendment of section 21.

8. In section 21 of the principal Act, in sub-section (1), the words "Save as provided in section 19" shall be omitted.

V. V. GIRI,

President.

N. D. P. NAMBOODIRIPAD,

Joint Secy. to the Govt. of India.

Reasons for the enactment

The problems of *bargadars* (share-croppers) in West Bengal have been engaging the attention of the State Government for quite sometime. The existing provisions in the West Bengal Land Reforms Act, 1955 relating to rights of *bargadars* are not considered to be adequate for safeguarding the interests of *bargadars*. Pending enactment of a comprehensive legislation with regard to *bargadars*, the proceedings for termination of cultivation by a *bargadar* were *temporarily* stayed by promulgation of an Ordinance in June, 1969, which was subsequently replaced by an Act of the State Legislature for continuation of the stay of proceedings up to 4th August, 1970. In the interest of agricultural production as well as of the continuity of cultivation by a *bargadar*, it seems more appropriate to make alterations in the grounds for termination of cultivation by a *bargadar* rather than to extend the period of the interim provision for the stay of proceedings of termination of cultivation. It is also considered equitable to provide for the continuous cultivation by a *bargadar* and, in the event of his death, by his lawful heirs, in respect of at least a minimum area with a view to enabling him to make improvements of durable nature and at the same time to permit small holders to resume

cultivation of land for *bona fide* personal cultivation in specified cases. In conformity with the pattern adopted in other States it is proposed to reduce the owner's share of the produce from 40 per cent. to 25 per cent. in cases where the owner does not supply cattle, plough and other inputs. An opportunity has also been taken for making certain other modifications for ensuring smootner implementation of the Act. The present measure is being enacted to achieve the above objectives.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970 (17 of 1970) has been consulted before enactment of this measure as a President's Act.

T. P. SINGH,
Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and Co-operation

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